

I disapprove, and am vetoing and filing with the Secretary of State Senate Bill No. 391. This bill adds the Lieutenant Governor to membership on the State Building Commission in place of the Chairman of the Board of Control.

Section 51-b of Article III of the Constitution of Texas creating the Building Commission provides that its membership shall consist of the Governor, the Attorney General, and the Chairman of the Board of Control. It also provides, however, that "the Legislature may provide by law for some other official to be a member of this Commission in lieu of the Chairman of the Board of Control, and in the event such said official has not already been confirmed by the Senate as such state official, he shall be so confirmed as a member of the State Building Commission in the same manner that other state officials are confirmed."

While the Office of Lieutenant Governor is created under Article IV of the Constitution and is technically a part of the executive branch of government, that office has historically been more closely aligned to the legislative rather than the executive branch of our government. The Lieutenant Governor presides over the Senate. He appoints all of the committees in the Senate. By process of recognition of members, he can determine the order of business of the Senate. In the event of a tie vote in the Senate, he has the authority to cast a vote which is equivalent to that of any member of that legislative branch.

On the other hand, while it is subject to legislative direction and legislative appropriation the same as any other state agency, the State Building Commission is clearly a part of the executive branch of government. Just as a clearly executive officer of our government should not directly participate and vote in the process of the Legislature, I question the wisdom of placing the presiding officer of the Senate as a member of an executive department commission. It is contrary to our well-established concepts of separation of powers of government.

This conflict is demonstrated by the above quoted constitutional provision authorizing another official to serve on the Building Commission in lieu of the Chairman of the Board of Control. Although the Lieutenant Governor is an elected state official and, therefore, not confirmed by the Senate, Section 51-b of Article III of the Constitution would require that he be confirmed as a member of the State Building Commission. The anomalous result is that the Lieutenant Governor would be required to be confirmed by the legislative body over which he is the presiding officer. In fact, the requirement for confirmation of the Section 51-b indicates that the Lieutenant Governor may not have been among those officials within the contemplation of those who framed the amendment.

For these reason, I disapprove Senate Bill No. 391.